

## **REMARKS**

Applicants request favorable reconsideration and allowance of this application in view of the foregoing amendments and the following remarks.

Claims 1, 2, 5, 8, 10, 11, and 19 are pending in this application, with Claims 1, 10, and 19 being independent.

Claims 1, 2, 10, and 19 have been amended. Applicants submit that support for the amendments can be found, for example, at least at page 10, lines 4-7 of the specification. Accordingly, Applicants submit that no new matter has been added.

Applicants appreciate the courtesy extended by the Examiner in granting and conducting a telephonic interview on April 30, 2009. The substance of the discussion during the interview is provided below.

Claims 1, 2, 5, and 8 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Claim 1 has been amended to recite that the claimed steps are performed in an information processing apparatus. The Examiner indicated during the interview that such amendments appear to overcome the Section 101 rejection. Withdrawal of that rejection is requested.

Claim 2 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. That claim has been amended in view of the Examiner's comments, and withdrawal of that rejection is requested.

Claims 1, 2, 5, 8, 10, 11 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,859,921 to Suzuki, in view of U.S. Patent No. 5,008,946 to Ando. Applicants respectfully traverse this rejection for the reasons discussed below.

As discussed during the interview, the invention recited in independent Claim 1 is directed to a human eye detection method that analyzes an image to get unverified candidate eye areas, determines a neighborhood region based on the unverified candidate eye area, and determines whether an unverified candidate eye area is a true eye area by comparing a ratio  $N/S$  to a threshold, wherein  $N$  is the number of dark areas detected in the neighborhood region and  $S$  is the size of the neighborhood region. In particular, as pointed out during the interview and reflected in the current amendments to Claim 1, the size of the neighborhood region is calculated from the size of the image. Thus, the size of the neighborhood region utilized to determine a true eye area is based on the size of the image and not the size of a feature or features in the image.

Applicants submit that the cited art fails to disclose or suggest at least the above-mentioned feature of Claim 1, where the size of a neighborhood region is calculated from the size of the image. In the Office Action, the claimed neighborhood region was said to correspond to the bands 520 in Suzuki. As pointed out during the interview, however, the bands in Suzuki are determined from a Y-direction histogram SUMY, by determining where the value of SUMY is greater than a threshold. Thus, the size of bands 520 simply depends on the histogram values. The size of those bands is not calculated, and in particular is not calculated from the size of the image. Accordingly, Applicants submit that Suzuki does not disclose or suggest at least the feature of determining a neighborhood region, the size of which is calculated from the size of the image, as recited in Claim 1.

The other cited art likewise fails to disclose at least the above-mentioned feature of Claim 1, and therefore that other art fails to remedy the deficiencies of Suzuki.

For the foregoing reasons, Applicants submit that the present invention recited in Claim 1 is patentable over the art of record. The other independent claims recite features similar to those

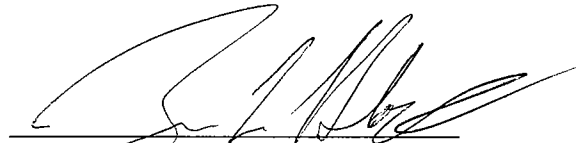
of Claim 1 discussed above, and are believed to be patentable for reasons similar to those discussed regarding Claim 1.

The dependent claims are believed patentable for at least the same reasons as the independent claims, as well as for the additional features they recite.

For the foregoing reasons, this application is believed to be in condition for allowance. Favorable reconsideration, withdrawal of the outstanding objections and rejections, and an early Notice of Allowance are requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brian L. Klock', is written over a horizontal line.

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